

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION,
OPIATE LITIGATION

MDL NO. 2804

Case No. 17-MD-2804

Judge Dan Aaron Polster

THIS DOCUMENT RELATES TO:

Rees v. McKesson Corporation, et al.
MDL Case #1:18-OP-45252

Ellis v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45464

Simonson v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45479

Wood v. Purdue Pharma L.P., et al.
MDL Case #1:18-OP-45264

DeMaro v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45465

Delaney v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45480

Salmons v. Purdue Pharma L.P., et al.
MDL Case #1:18-OP-45268;

Cruz v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45466

Stewart v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45481

Ambrosio v. Purdue Pharma L.P., et al.
MDL Case #1:18-OP-45375

Paul v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45467

Shewmake v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45482

Flanagan v. Purdue Pharma L.P., et al.
MDL Case #1:18-OP-45405

Lechuga v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45468

Weatherwax v. Purdue Pharma, LP., et al.
MDL Case No. #1:19-op-45483

Whittley v. Purdue Pharma LP., et al.
MDL Case #1:18-OP-45598

Brumbarger v. Purdue Pharma, LP., et al.
MDL Case No. #1:19-op-45469

Martinez v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45484

Roach v. McKesson Corporation, et al.
MDL Case No. #1:18-OP-45662

Means v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45470

Warren v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45486

Hunt v. Purdue Pharma L.P., et al.
MDL Case No. #1:18-OP-45681

Peterson v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45472

Carlson v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45487

Hanlon v. Purdue Pharma L.P., et al.
MDL Case No. #1:19-op-45052

Hampel v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45473

Flach v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45488

Doyle v. Purdue Pharma L.P., et al.
MDL Case No. #1:18-op-46327

Whittaker v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45475

Ivie v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45489

Moore v. Purdue Pharma L.P., et al.
MDL Case No. #1:18-op-46305

Tutile v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45476

Cherry v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45490

Artz v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45459

Hamawi v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45477

Ortiz v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45492

Rodriguez v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45463

Gauthier v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45478

Meinecke v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45493

Brant v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45494

Williams, v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45485

SECOND AMENDED JOINT PROPOSED SCHEDULING ORDER

Pursuant to the Court's orders of September 17, 2019 and October 1, 2019, the Plaintiffs in the above-captioned cases ("NAS Plaintiffs") and Defendants identified below¹ respectfully submit the below proposals with respect to the motion on NAS class certification. The parties have reached agreement on the first portion of the scheduling order and related case management provisions. The parties have not reached agreement on the second portion and accordingly present alternative proposals for deadlines following January 7, 2020.

Agreed-Upon Scheduling Order Provisions:

1. NAS Plaintiffs shall file their amended complaints in four of the cases to which this Order is applicable no later than **October 8, 2019**.² These complaints will be subject to no further amendment and will be the subject of the representative motions for class certification to be heard by the Court.
2. NAS Plaintiffs shall further disclose on **October 14, 2019** the identities and area of expertise for any experts whom they intend to offer in support of class certification.
3. NAS Plaintiffs and Defendants dispute the propriety of additional written discovery of Defendants. Written discovery shall be served on defendants, if any, by **October 15, 2019**. If the parties cannot agree as to whether the served discovery is appropriate by **October 25, 2019**, NAS Plaintiffs shall file a motion to compel.
4. NAS Plaintiffs shall produce to defendants on **October 21, 2019**, signed fact sheets for all plaintiffs identified in the four amended complaints based on information in plaintiffs' possession. In order for a fact sheet to be complete it must be accompanied by all requested documentation in Plaintiffs' possession. The fact sheet to be completed by Plaintiffs is

¹ Certain defendants that may be named in the above-captioned cases or soon to be filed amended pleadings are not subject to personal jurisdiction in some or all of these cases, in which responsive pleadings are not yet due pursuant to the Court's orders. Defendants submit this filing as instructed by the Court but subject to, and without waiver of, all defenses, including lack of personal jurisdiction, no service of process, or ineffective service of process, in each case.

² This deadline is currently the subject of a motion for extension by the NAS Plaintiffs and will be operative if the motion is granted.

attached hereto as Exhibit A. If NAS Plaintiffs are not in possession of particular requested information or documents on October 21, they shall state whether they expect to receive such items in the future and when.

5. NAS Plaintiffs' expert reports shall be disclosed on or before **December 1, 2019**.
6. NAS Plaintiffs shall file their consolidated motion for class certification on **January 7, 2020**.

NAS Plaintiffs' Proposed Scheduling Order Provisions

1. The consolidated motion for class certification may be amended by leave of court for good cause shown.
2. Plaintiffs shall make their experts available for deposition before **January 15, 2020**.
3. Defendants' expert reports shall be disclosed on or before **February 1, 2020**.
4. Defendants shall make their experts available for deposition before **March 13, 2020**.
5. Defendants' opposition to class certification shall be due on **March 16, 2020**.
6. Plaintiffs' reply shall be due on **April 16, 2020**.

Defendants' Proposed Scheduling Order Provisions

1. Plaintiffs shall make their experts available for deposition before **January 31, 2020**.
2. Defendants' expert reports shall be disclosed on or before **February 21, 2020**.
3. Defendants shall make their experts available for deposition before **March 24, 2020**.
4. Defendants' opposition to class certification shall be due on **April 1, 2020**.
5. Plaintiffs' reply shall be due on **April 30, 2020**.

Agreed-Upon Case Management Provisions:

1. NAS Plaintiffs shall respond to defendants' discovery requests, and produce responsive, non-privileged documents, within 14 days of service of any requests.
2. Each party shall produce, at the same time it serves the disclosures and other materials required under Fed. R. Civ. P. 26(a)(2) for each of its experts, the "facts or data considered by the witness in forming" the expert's opinions. Documents relied upon that were produced in discovery in this case by any party may be identified by Bates numbers and need not be produced; and materials that are publicly and easily available without cost (e.g., over the Internet) need not be produced. All other data and documents must be produced. Nothing in this paragraph expands in any way the disclosure requirements of FRCP 26(a)-(b).
3. Each party must provide the materials required to be produced, including work papers, spreadsheets, data sets, and exhibits, in a usable format to allow evaluation of any analyses performed. To the extent that expert's work product is designated confidential, it shall be subject to the Protective Order (CMO No. 2).All documents produced must bear a Bates Stamp to allow for identification. The parties shall cooperate in exchanging programs or other materials necessary to allow full review and evaluation of the disclosed expert analyses. Nothing in this paragraph expands in any way the disclosure requirements of FRCP 26(a)-(b).

Dated: October 7, 2019

Respectfully submitted,

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³ On September 15, 2019, Purdue Pharma L.P. and its affiliated debtors filed voluntary petitions for relief under chapter 11 of United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York. Purdue Pharma L.P.'s case is docketed as *In re Purdue Pharma L.P.*, No. 19-23649. Also on September 18, 2019, Purdue Pharma L.P. and its affiliated debtors filed a motion for preliminary injunction seeking an order staying certain active cases to the extent not already stayed by the automatic stay. To otherwise preserve and without waiving any rights, and out of an abundance of caution, Purdue joins in this proposed scheduling order.

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CERTIFICATE OF SERVICE

A copy of the foregoing was filed via the Court's electronic filing system on October 7, 2019. Notice of this filing will be sent by e-mail through the Court's electronic case-filing system to all counsel of record.

/s/Emily S. Ullman
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